

ZANE AND RUDOFSKY

Attorneys and Counsellors at Law

THE STARRETT LEHIGH BUILDING

601 WEST 26TH STREET

NEW YORK 10001

(212) 245-2222

FAX (212) 541-5555 • VOICEMAIL (212) 541-4444

E-MAIL info@zrlex.com • WEBSITE <http://www.zrlex.com>

Please Note Our New Contact Information:

c/o Edward S. Rudofsky, P.C., Five Arrowwood Lane, Melville, New York 11747

ed@rudofskylaw.com; 917-913-9697

December 29, 2022

Hon. Lewis J. Liman, U.S.D.J.
Southern District of New York
United States Courthouse
500 Pearl Street
New York, NY 10007

Via ECF

**Re: 689 Eatery Corp., etc. et ano. v. City of New York, et al.,
Docket No. 02 CV 4431 (LJL) (“Action No. 1”)**

**59 Murray Enterprises, Inc. etc., et ano. v. City of New York, et al.,
Docket No. 02 CV 4432 (LJL) (“Action No. 2”)**

**Club at 60th Street, et al. v. City of New York
Docket No. 02 CV 8333 (LJL) (“Action No. 3”)**

**336 LLC, etc, et al. v. City of New York
Docket No. 18 CV 3732 (LJL) (“Action No. 4”)**

Dear Judge Liman:

We represent the Plaintiffs in the above-referenced Action No. 2 and write on behalf of the Plaintiffs and Defendants in each of the related cases listed above to request further adjustment of the briefing schedule in these matters, as set forth below.

Counsel have conferred with each other and with incoming lead counsel in Action No. 1, Jeffrey Nye, Esq., of the Ohio bar, who will be substituting for outgoing counsel, Jennifer Kinsley, Esq. As Your Honor may recall, Ms. Kinsley was recently elected to the Court of Appeals of Ohio and is, accordingly, closing her practice. Attorney Nye, who has not previously been involved in these cases, has advised that he has received the voluminous case file from Judge-Elect Kinsley, as well as his Certificates of Good

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Standing, and that he will be filing his *pro hac vice* application with Your Honor no later than this Friday, December 30th. He anticipates that it will take him 90 days to complete his review of the files and be ready to meaningfully participate in the briefing of the pending motions (and plaintiffs' cross-motion) on behalf of his clients. Taking Mr. Nye's need to get up to speed in a multi-faceted 20-year old litigation (with antecedent litigation roots dating back to 1995), and counsels' respective schedules and other obligations, we are jointly proposing, on consent of all parties, that the due date for the next round of briefs -- opposition to plaintiffs' pending motions for partial summary judgment, opposition to the City's pending motion for summary judgment, and plaintiffs' cross-motion for summary judgment -- be postponed from January 15, 2023 to April 28, 2023, with concomitant re-scheduling of the due dates for the following rounds of briefs extended to May 26, 2023 and June 16, 2023, respectively.

A subsidiary scheduling issue that has arisen is the due date for the parties' proposed Second Supplemental Stipulation of Facts. Your Honor had most recently extended the due date to December 30, 2022, but several very technical building code and "available alternative site" calculation issues have arisen, requiring the input of Ms. Kinsley (who has been representing the plaintiffs in working out this supplemental stipulation) and, especially, critical staff from the City's Department of City Planning, who are away for the holiday week. This aspect is further complicated by the limited availability of Ms. Kinsley and the City's counsel during early January. After consultation, counsel are accordingly requesting that this deadline be further extended to January 20, 2023. As noted, this will not delay the briefing of the motions and cross-motion, which will, in any event, need to be re-scheduled for the reasons explained above.

As always, counsel thank Your Honor for your consideration of these requests. We also want to take this opportunity to extend best wishes to the Court and its staff for a happy and healthy 2023.

Respectfully,
Edward S. Rudofsky
Edward S. Rudofsky

Cc: All Counsel (Via ECF)